

## § 641.322

(2) No enrollee or staff person, at any time, may be permitted to engage in partisan political activities in which such enrollee or staff person represents himself or herself as a spokesperson of the SCSEP program.

(3) No enrollee may be employed or out-stationed in the office of a Member of Congress, a State or local legislator, or on any staff of a legislative committee.

(4) No enrollee may be employed or out-stationed in the immediate office of any elected chief executive officer(s) of a State or unit of general government, except that:

(i) Units of local government may serve as host-agencies for enrollees in such positions, provided that such assignments are nonpolitical; and

(ii) Where assignments are technically in such offices, such assignments actually are program activities not in any way involved in political functions.

(5) No enrollee may be assigned to perform political activities in the offices of other elected officials. However, placement of enrollees in such nonpolitical assignments within the offices of such elected officials is permissible, provided that grantees develop safeguards to ensure that enrollees placed in these assignments are not involved in political activities. These safeguards shall be described in the grant agreement and shall be subject to review and monitoring by the grantee and the Department.

(b) *Hatch Act.* (1) State and local employees governed by 5 U.S.C. chapter 15 shall comply with the Hatch Act provisions as interpreted and applied by the Office of the Special Counsel.

(2) Each project subject to 5 U.S.C. chapter 15 shall display a notice and shall make available to each person associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under 5 U.S.C. chapter 15 which are applicable to the project and each category of individuals associated with such project. This notice, which shall have the approval of the Department, shall contain the telephone number and address of the DOL Inspector General. [Section 502(b)(1)(P) of the OAA.] Enforcement of the Hatch

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Act shall be as provided at 5 U.S.C. chapter 15.

### § 641.322 Unionization.

No funds provided under title V of the OAA or this part may be used in any way to assist, promote, or deter union organizing.

### § 641.323 Nepotism.

(a) No grantee or subgrantee may hire, and no host agency may be a work site for a person who works in an administrative capacity, staff position, or community service position funded under title V of the OAA or this part if a member of that person's immediate family is engaged in a decision-making capacity (whether compensated or not) for that project, subproject, grantee, subgrantee or host agency. This provision may be waived by the Department at work sites on Native American reservations and rural areas provided that adequate justification can be documented, such as that no other persons are eligible for participation.

(b) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, that requirement shall be followed.

(c) For purposes of this section:

(1) *Immediate family* means wife, husband, son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, and grandchild.

(2) *Engaged in an administrative capacity* includes those persons who, in the administration of projects, or host agencies, have responsibility for, or authority over those with responsibility for, the selection of enrollees from among eligible applicants.

### § 641.324 Enrollee and applicant complaint resolution.

(a) Each grantee shall establish and describe in the grant agreement procedures for resolving complaints, other than those described by paragraph (c) of this section, arising between the grantee and an enrollee.

(b) Allegations of violations of federal law, other than those described in paragraph (c) of this section, which

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cannot be resolved within 60 days as a result of the grantee's procedures, may be filed with the Chief, Division of Older Worker Programs, Employment and Training Administration, U.S. Department of Labor, Washington, DC 20210.

(c) Grantees that do not receive any funds under the JTPA shall process complaints of discrimination in accordance with 29 CFR parts 31 and 32. Grantees that receive any funds under JTPA shall process complaints of discrimination in accordance with 29 CFR part 34.

(d) Except for complaints described in paragraphs (b) and (c) of this section, the Department shall limit its review to determining whether the grantee's appeal procedures were followed.

### § 641.325 Maintenance of effort.

(a) Employment of an enrollee funded under title V of the OAA or this part shall be only in addition to budgeted employment which would otherwise be funded by the grantee, subgrantee and the host agency(ies) without assistance under the OAA. [Section 502(b)(1)(F) of the OAA.]

(b) Each project funded under title V of the OAA or this part:

(1) Should result in an increase in employment opportunities in addition to those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits;

(3) Shall not impair existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(4) Shall not substitute project jobs for existing federally-assisted jobs; and

(5) Shall not employ or continue to employ any enrollee to perform work which is the same or substantially the same as that performed by any other person who is on layoff. [Section 502(b)(1)(G) of the OAA.]

### § 641.326 Experimental private sector training projects.

(a) The Department may authorize a grantee to develop an experimental job

training project(s) designed to provide second career training and the placement of eligible individuals in employment opportunities with private business concerns. [Section 502(e) of the OAA.]

(b) Experimental project agreements for training may be with States, public agencies, non-profit private organizations, and private business concerns.

(c) The geographic location of these projects shall be determined by the Department to insure an equitable distribution of such projects.

(d) To the extent feasible, experimental projects shall emphasize second-career training, and innovative work modes, including those with reduced physical exertion, and placement into growth industries and jobs reflecting new technologies.

(e) The Department shall establish by administrative guidelines the application schedule, content, format, allocation levels and reporting requirements for experimental projects.

(f) Current title V eligibility standards shall be used for experimental projects unless the Department permits, in writing, the use of another approved income index.

(g) Projects funded under section 502(e) of the OAA shall seek to be coordinated with projects carried out under title II-A of the JTPA to the extent feasible.

(h) National grantees shall distribute funds for experimental projects in accordance with the State allocation in their title V grant.

(i) A grantee may exclude a project, permitted under section 502(e) of the OAA, from meeting the non-federal share requirement set forth in § 641.407; however, this exclusion does not relieve the grantee from the matching requirement, under § 641.407, which applies to the entire grant.

## Subpart D—Administrative Standards and Procedures for Grantees and Limitations on Federal Funds

### § 641.401 General.

This subpart establishes limitations on title V funds to be used for community service activities and describes, or